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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,950	12/28/2001	Jurgen Ziegler	1999P8173	8578
7590 12/08/2003			EXAMINER	
LERNER AND GREENBERG, P.A. PATENT ATTORNEYS AND ATTORNEYS AT LAW Post Office Box 2480 Hollywood, FL 33022-2480			LUU, THANH X	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/033,950		ZIEGLER ET AL.	
	Examiner		Art Unit	
	Thanh X Luu		2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,11-13 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 4,6,8-10,14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to amendments and remarks filed October 23, 2003. Claims 1-20 are currently pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 7, 11-13, 18 and 19, are rejected under 35 U.S.C. 102(b) as being anticipated by Miyajima (U.S. Patent 5,885,352).

Regarding claims 1-3, 5, 7, 11-13, 18 and 19, Miyajima discloses (see Figure 4) an apparatus for monitoring layer depositions in a process chamber, comprising: a light source (P); a disk-shaped sensor element (24) subjectable to deposition and growth of a deposition layer; a light detector (25); and the sensor element having a first surface, a second surface and a region (18) extending from the first surface to the second surface, the region being configured for light to pass through and to absorb light to a lesser extent (light passes through) than a remaining part of the sensor element, and intensity of the light being measured in dependence on the region being grown over by a thickness of the deposition layer. The region being a continuous layer (hole), the region is configured to influence the intensity of the light, and the light source is a separate light source or plasma. Miyajima also discloses (see Figure 4) other detectors not influenced

by the sensor element, wherein the region is about as thick as a maximum layer deposition.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyajima in view of Kawai et al. (U.S. Patent 5,200,021).

Regarding claims 16 and 17, Miyajima discloses the claimed invention as set forth above. Miyajima does not specifically disclose a heating or cooling device as claimed. Kawai et al. teach (see Figure 8) a heating device. Further, cooling devices are well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a heating or cooling device in the apparatus of Miyajima in view of Kawai et al. to provide a desired temperature for proper operation.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyajima

Regarding claim 20, Miyajima discloses the claimed invention as set forth above. Miyajima further disclose cleaning. Miyajima does not specifically disclose comparing as claimed. However, it is notoriously well known in the art to compare a signal value to a minimum and maximum value to determine a state of operation. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide such minimum and maximum values for comparison in the apparatus of

Miyajima to differentiate between a cleaning condition and improve the operation of the device.

Allowable Subject Matter

6. Claims 4, 6, 8-10, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

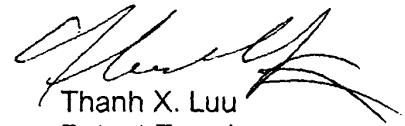
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X. Luu whose telephone number is (703) 305-0539. The examiner can normally be reached on Monday-Friday from 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta, can be reached on (703) 308-4852. The fax phone number for the organization where the application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

txl
December 3, 2003


Thanh X. Luu
Patent Examiner